



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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Paper No. 12

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NOV 28 2001

In re Application of	:	
David R. Hembree et al.	:	
Application No.: 09/026,080	:	DECISION ON PETITION
Filing Date: January 20, 1999	:	TO WITHDRAW THE
Attorney Docket No.: 1001-006	:	HOLDING OF ABANDONMENT

This is a decision on the petition filed on July 5, 2001 under 37 C.F.R. § 1.181 to withdraw the holding of abandonment of the above-identified application. There is no fee for this petition.

The petition is **GRANTED**.

The application was held abandoned for failure to file a proper response to the Office action mailed November 22, 2000. A Notice of Abandonment was mailed on June 26, 2001.

Petitioner asserts that a response including an Amendment was timely filed in the above-identified application on January 30, 2001. To support this assertion, Petitioner has submitted a copy of the response and a copy of a return postcard which identifies and acknowledges receipt of the response by the Patent and Trademark Office (PTO) on January 30, 2001.

Although the Serial Number of the application is transposed from 09/026,080 to 09/206,080 on both the response and on the postcard, the other information such as the title and Applicant's name is correct. Thus, the transposed application Serial Number is considered a minor error that could have been quickly discovered. See M.P.E.P. § 502.

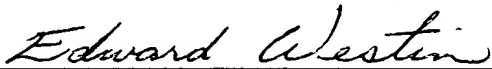
A review of the application file record reveals that the above-identified response having been acknowledged as being received in the PTO on January 30, 2001, is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely received but lost after receipt thereof.

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The copy of the response submitted with the petition on July 5, 2001 is accepted since the response originally submitted was apparently lost.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed June 26, 2001 is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. The application file will then be forwarded to the Examiner for prompt appropriate action.



Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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